FEDERAL BUREAU OF INVESTIGATION

FREEDOM OF INFORMATION/PRIVACY ACTS SECTION

COVER SHEET

SUBJECT: American Civil Liberties Union

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Tolson

DATE: December 14, 1955

FROM : L. B. Nichols

SUBJECT:

SECURITY MATTER - C
Bufile 100-

Tolson
Boardman
Belmont
Mohr
Parsons
Rosen
Tamm
Sizoo
Winterrowd
Tele. Room
Holloman
Gandy

Herbert Monte Levy, Counsel for the American Civil Liberties Union, came by to see me recently while he was in Washington. He has submitted his resignation and contemplates leaving the Union around the first of January. He will still keep his interest and will endeavor to be of any possible assistance to the Bureau in matters which we are interested in. I naturally thanked him for his assistance in the past and told him we would expect him to keep an eye on things.

He then stated that last June, Louis Joughin, Assistant Director of the American Civil Liberties Union, had written the Bureau regarding an incident which had caused some of them at the Union to be somewhat concerned. He then pointed out that the wife of Professor was accosted on the street after she came out of a store by two FBI Agents who sought to interview her. Joughin had written a letter to the Bureau regarding the incident for the purpose of ascertaining whether the actions of the Agents were proper. It appears that both and his wife have protested to the American Civil Liberties Union (ACLU) of the actions and the ACLU was seeking to ascertain whether they should take any interest in the case.

Levy stated that Joughin got a short letter back admitting that Mrs. was contacted but pointing out that the Director was precluded from furnishing any information in view of the confidential character of the files. Levy asked if I could not look into the matter and tell them whether the action was proper or improper. I told him that I did not recall the matter but that it seemed to me that the phraseology of the Director's letter indicated that we did not regard the action as improper. He then asked if there was any way whereby we could elaborate on this in further detail. He stated there was no inclination to be critical of the Bureau but that the had made quite a case and an honest doubt had arisen as to why we had not called for an appointment and seen Mrs. under more normal circumstances.

INDEXED-42 61-190-570

10 DEC 20 1955

cc: Mr. Boardman
Mr. Belmont
LBN:arm
(4)

EX-107

999

Memorandum to Mr. Tolson from L. B. Nichols
RE:

SECURITY MATTER - C

You will recall this is the case wherein there was a delay in conducting interviews on the part of the New York office; that the interview was conducted as a part of our program whereby we seek not to interview individuals in their own homes or offices. Mrs. [redacted] was reported by confidential informants as being a member of the Communist Party in 1934-42 and 1944. Informants have reported she was in contact with Friends of the Soviet Union on February 17, 1941; member of Joint Board of the Teachers Union in 1941; member of American Association of Scientific Workers from 1941 to 1943; employed 1944, 1946 and 1947 by the Jefferson School of Social Science; that she had invoked the Fifth Amendment in appearances before the McCarthy Committee on May 25, 1953, and June 19, 1953; and in January, 1955, the State Department had declined to issue a passport to her husband and her because of their refusal to furnish a non-Communist affidavit.

I think the thing to do is for me to tell Levy confidentially for his own information and guidance that there were certain matters we wanted to resolve; that we felt it inadvisable to go to either her office or her home because we anticipated an antagonistic reception, so in all fairness we wanted to do what we could to resolve certain matters if we could avoid any controversy; that since she had previously invoked the Fifth Amendment, there was not too much likelihood that she would furnish information; however, to resolve doubts, if she acted in good faith and was sincere, we thought she would take no offense if we approached her on neutral ground without advance information; that if she declined to talk, no harm would be done and that here was another illustration that with some people it simply does not pay to be polite and kind. I would like to give Levy her Communist Party Card #26195 in 1944; however, I think this would be improper and would not do so.

AMERICAN CIVIL LIBERTIES UNION, 170 FIFTH AVENUE, NEW YORK 10, N. Y.

ERNEST ANGELL
Chairman
Board of Directors

MORRIS L. ERNST
General Counsel

PATRICK MURPHY MALIN
Executive Director

ORegon 5-5990

Alan Reitman, Public Relations Director

Weekly Bulletin #1730

December 26, 1955

ACLU CRITICIZES FEDERAL IMMUNITY LAW

The American Civil Liberties Union recently criticized the 1954 Federal Immunity Law, as the United States Supreme Court heard argument on the law's constitutionality.

The high court heard the appeal of William Ludwig Ullmann, convicted for contempt last March for failing to testify before a federal grand jury in New York City investigating World War II espionage, although granted immunity from prosecution.

Patrick Murphy Malin, ACLU executive director, said that the civil liberties group's sole interest was the constitutionality and wisdom of the 1954 law, which was being tested for the first time in the Ullmann case. He emphasized that the ACLU's statement was not a criticism of the grand jury's investigation of espionage.

"The 1954 immunity law establishes that, following the approval of a federal court, immunity from prosecution can be granted to persons who could otherwise rely on their constitutional privilege against self-incrimination in refusing to give testimony to congressional committees and grand juries.

"The ACLU opposed this law when it was first proposed, because we believed it was violative of civil liberties, and we are still firmly opposed to it. Our objections are based on the uncertain protection and vague scope of the immunity grant, the self-degradation suffered by witnesses who are required to testify about past activities -- which may not be criminal --, and that information about Communist activities -- the main purpose of the law -- is already available.

"It is not clear, under this law, whether witnesses who accept immunity and testify before federal agencies will also be protected against state prosecution. The courts may hold that the immunity grant does not cover state matters or that Congress had no right to limit state prosecutions. When a person is forced to give possible incriminating evidence and he does not know what his immunity covers, the fair procedures of due process, guaranteed by the Fifth Amendment, are not being observed.

"The ACLU considers the immunity law as unwise because we believe [illegible] privilege against self-incrimination should also include protection against self-degradation. While the courts today might not accept this view, we believe that the past rulings of judges of various courts should still apply, that [illegible] should be protected against giving self-degrading testimony.

"Our democratic system is based on the concept of fairness and decent treatment of the individual, and the full power of government should not be brought to bear to force a person to condemn himself by his own words. The Fifth Amendment protection against self-incrimination is rooted in the historical [illegible] men to maintain their political beliefs despite government efforts [illegible] which would result in criminal prosecutions. And even if persons [illegible] not disclose criminal activities, non-criminal disclosures about Communist matters could subject them to severe punishment. Under the 1950 Internal Security Act they could be denied passports and government employment, or even [illegible] possible imprisonment, [illegible] potentially dangerous in a time of national emergency.

"While the Ullmann case before the Supreme Court concerns questions asked by a grand jury, the main purpose of the immunity law is to aid congressional committees investigating various phases of Communism by forcing people to give information on this subject. The ACLU recognizes the danger of Communist subversion and has never opposed inquiry and action by proper govern-

mental agencies into and against subversive acts, but we question whether important information has been denied congressional committees by the use of the Fifth Amendment privilege against self-incrimination. These committees have heard lengthy testimony from a large number of ex-Communists who have described fully the operations of the Communist Party, and there is a plethora of other material available."

DAMAGE SUIT FILED IN DENIAL OF POOL FACILITIES TO NEGRO GIRL

A claim for $1000 damages, charging racial discrimination against a 9-year-old Negro girl who was denied admission to the South Pasadena, California Municipal Plunge, was filed recently against the City of South Pasadena by Mrs. Mildred McClain Johnson, on behalf of her German-born adopted daughter, Susan McClain.

The complaint, prepared by Attorney Hugh R. Manes for the Southern California branch of the American Civil Liberties Union, charges that Susan was prevented from entering the pool last Aug. 2 after a neighbor, John Abbott, had purchased tickets for his two daughters and Susan.

Both a clerk and an assistant manager of the pool told Abbott that Susan "won't be allowed in the pool" because of a Department of Recreation "rule" barring Negroes, the complaint said.

Mrs. Johnson, who adopted Susan from a German orphanage in 1952, said she appealed to Don Dollison, assistant City manager, who said there was no written authority for the "rule" but refused to guarantee that the incident would not recur.

Susan was brought to the U.S. at the request of the child's godmother for the purpose of removing her from an atmosphere of racial discrimination, Mrs. Johnson said.

The incident caused Susan "much embarrassment, humiliation, chagrin, mental pain and anguish, hurt feelings and suffering," the complaint, submitted to the South Pasadena City Council, said.

Named as defendants in the claim, besides Dollison, were: Frank Clough, city manager; Mayor Joseph Fartsch; Robert Seiler, superintendent of the Department of Recreation; Neil Cornell, manager of the South Pasadena Swimming Plunge, and two pool employees.

DENIAL OF CROSS-EXAMINATION AND CONFRONTATION IN COAST GUARD SECURITY CASES VOIDED

In a decision which may have far-reaching significance, the U.S. Court of Appeals in San Francisco ruled recently that the denial to merchant seamen of the right to learn the identity of and cross-examine their accusers in security proceedings under the Coast Guard's security program is unconstitutional. While the decision applies only to privately-employed persons, it raises the key issue which the American Civil Liberties Union and other groups have sought to test in the government's employee security program.

The 2-1 decision in the case, known as Parker v. Lester, developed from a legal action brought by several merchant seamen against the Coast Guard to enjoin them from administering the security program as set forth in Coast Guard regulations. The seamen charged that they were deprived of due process of law when they were denied the right to confront and cross-examine their accusers, and the Court agreed. The Court relied mainly on the theory that the Coast Guard security regulations, which state that particulars of the charge need not be given if they would set forth the source of the derogatory information or result in a disclosure of the name of the informer, prevented the merchant seamen from knowing whether the particulars of the charges had been given to him. The issue in the case, the Court said, was "whether the fancied or possible danger to national security is such a consuming one that the ancient and generally accepted rights of confronting and cross-examining accusers by these seamen citizens."

While ruling that the mere existence of a Coast Guard security program would create no problem, the Court said that it must balance the need for a program which denies right to proper notice and hearing against the rights which such notice and hearing. It noted that the lower court had said

that the regulations were constitutional, apparently because of the FBI insistence that its sources of information would dry up if names of the informers became known.

Asserting this was "a mere speculation", but assuming its truth for purposes of argument, the Court then answered "no" to whether the existence of a system of secret informers was so vitally important that it must be preserved even though it denies due process to individuals. Said the Court:

"It may be assumed that this determination will remove from the investigative agencies, to some degree, a certain kind of information and that, in the future, some persons will be deterred from carrying some of these tales to the investigating authorities. It is unbelievable that the result will prevent able officials from procuring proof any more than those officials are now helpless to procure proof for criminal prosecutions. But surely it is better that these agencies suffer some handicap than [illegible] a foreign born loving country shall be denied that which has always been considered their birthright. Indeed, it may well be that in the long run nothing but beneficial results will come from a lessening of such talebearing. It is a matter of public record that the somewhat comparable security risk program directed at government employees has been used to victimize perfectly innocent men. The objective of perpetuating a doubtful system of secret informers likely to bear upon the innocent as well as upon the guilty and carrying so high a degree of unfairness to the merchant seaman involved cannot justify an abandonment here of the ancient standards of due process."

The Court expressed its fear that if these regulations could be sustained, a security program might be set up with the same denial of due process affecting even a larger group of citizens, such as railroad workers, operators of transportation facilities, etc. Admitting the possibility that our system of constitutional rights may not hold its own against malevolent totalitarians, the Court stated:

"It may be possible that we have reached an age when our system of constitutional freedom and individual rights cannot hold its own against those who, under totalitarian discipline are prepared to infiltrate not only our public service, but our civilian employments as well.

"In the event of war we may have to anticipate Black Tom explosions on every waterfront, poison in our water systems, and sand in all important industrial machines.

"But the time has not come when we have to abandon a system of liberty for one modeled on that of the Communists. Such a system was not that ordained by the framers of our Constitution. It is the latter we are sworn to uphold."

Commenting on the important decision, ACLU executive director. Patrick Murphy Malin said:

"This decision now confirms what the ACLU told the Coast Guard some years ago, that its regulations do not conform to due process. It represents a major step forward in securing the rights of due process to those involved in security proceedings, though clearly it does not decide the question which the U. S. Supreme Court has refused to decide, namely, whether a government employee can be denied the right to cross-examination in security proceedings.

"The Parker case deals solely with the person who is privately employed, but will doubtless have repercussions upon the right to cross-examine in other security proceedings involving private employment, such as the security program for those in defense plants who have access to classified government data."

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. L. V. Boardman

DATE: 12-29-55

FROM : Mr. A. H. Belmont

cc - Boardman
Nichols
Belmont
Rosen
Baumgardner
Sutthoff
Kleinkauf

Tolson
Boardman
Nichols
Belmont
Harbo
Mohr
Parsons
Rosen
Tamm
Sizoo
Winterrowd
Tele. Room
Holloman
Gandy

SUBJECT: AMERICAN CIVIL LIBERTIES UNION (ACLU)
INFORMATION CONCERNING (INTERNAL SECURITY)
FBI File 61-190

By my memorandum to you dated 12-20-55, an SAC letter was attached for approval instructing the field that membership in, reference to, or documentation of the ACLU, should not be included in investigative reports prepared by the Bureau except such references as pertain to the Los Angeles Chapter or membership therein. The Director commented "I would want further justification for such action. Our reference to membership in ACLU doesn't brand such member as subversive nor the ACLU as such. It is, however, well known that members of ACLU have been positive in their efforts in behalf of subversives such as their S.F.ACLU man and more recently efforts in behalf of Pittsburgh convicted Communists." The Director, therefore, did not approve the sending of the SAC letter.

With regard to the desirability of documenting all chapters of ACLU by using the California Committee on Un-American Activities (CCUA) citation the following factors must be considered. The Bureau has never conducted an investigation of the ACLU or its chapters; therefore, it is not in a position to prepare a documentation of the ACLU for utilization in reports going outside the Bureau. Consequently, it has to rely upon public source material and the only such material available is the citation by the CCUA. While reports containing this citation attribute the material to the CCUA, past experience has shown that individuals outside the Bureau reading Bureau reports will consider the use of the documentation an endorsement of it by the FBI.

If an individual is participating in subversive activities, in all probability the reporting office will have more pertinent and concrete information regarding such activity other than membership in the ACLU. If not, then the office should not report membership in the ACLU alone as an instance of subversive activity because membership in the ACLU per se cannot be construed as subversive.

The Bureau's position and knowledge regarding the Los Angeles Chapter differs from other ACLU chapters in that the Communist influence in the Los Angeles chapter is specifically documented in the CCUA's 1949 report. Ernest Besig, director, Northern California Branch, ACLU, has openly attacked the Bureau and its

Enclosure 1-3-56

JHK:amk:sad

RECORDED - 14

61-190-571

17 JAN 4 19

1001

INVSEC

JAN 5 1956

operations. Consequently, the Bureau's position is sound in approving modified versions of the CCUA citation which were transmitted to the 3 California offices by Bulets dated 2-9-55, and 6-30-55, captioned "Security of Government Employees, Documentation of the Los Angeles Chapter of the American Civil Liberties Union."

The only specific instructions furnished to the field concerning the use of the CCUA citation in documenting ACLU are set forth in the afore-mentioned letters to the 3 California offices. As a general practice, however, the field does not refer to or document membership in the ACLU in setting forth the subversive activities of individuals, except in the case of the Los Angeles ACLU chapter. In some cases, however, as in the case of the Newark report described in referenced memorandum the ACLU, or one of its chapters other than the Los Angeles chapter is documented by the CCUA citation. It was with this type of situation in mind that we proposed to correct this lack of uniformity in documenting the ACLU by the instructions set forth in the recommended SAC letter.

RECOMMENDATIONS

1. That the attached SAC Letter instructing that reference to membership in, reference to, or documentation of, the ACLU should not be included in future investigative reports except such references as pertain to the Los Angeles chapter, or membership therein, be approved.

2. That this memorandum be routed to the Assistant to the Director L. B. Nichols for his comments.

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Tolson

FROM : L. B. Nichols

DATE: Dec. 23, 1955

SUBJECT: AMERICAN CIVIL LIBERTIES UNION

Tolson ✓
Boardman
Nichols
Belmont ✓
Harbo
Mohr
Parsons
Rosen
Tamm
Sizoo
Winterrowd
Tele. Room
Holloman
Gandy

We have had rumbles that the House Committee on Un-American Activities (HCUA) had prepared a report on the American Civil Liberties Union (ACLU) but that the members had voted to surpress the report and not issue it. A copy of the report was made available both by Congressman Velde and Congressman Walter to Irving Ferman, Washington representative of the ACLU and the ACLU was given the right to file an analysis of this report and set forth their position which Ferman wanted us to have. A copy is attached.

Enclosure
cc: Mr. Boardman
Mr. Belmont
LBN:arm
(4)

INDEXED

61-190-573

21 JAN 10 1956

1004

This serial has been removed per Court Order of the U.S. District Court, Chicago, Illinois (Judge Will), for in camera review in the case of DAVID HAMLIN v. CLARENCE KELLEY, Civil Action Number 76-C-3902.

*The "Document Number" refers to that number assigned each document in this request as set forth in the Detailed Justification furnished the District Court on 3/1/78.

5001

FBI/DOJ

197-60-26

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. L. V. Boardman

DATE: December 10, 1955

FROM : Mr. A. H. Belmont

cc - Boardman
Nichols
Belmont
Rosen
Baumgardner
Sutthoff
Kleinkauf

Tolson
Boardman
Nichols
Belmont
Harbo
Mohr
Parsons
Rosen
Tamm
Sizoo
Winterrowd
Tele. Room
Holloman
Gandy

SUBJECT: AMERICAN CIVIL LIBERTIES UNION
INFORMATION CONCERNING (INTERNAL SECURITY)
Bufile 61-190

PURPOSE:

To consider the question whether the American Civil Liberties Union (ACLU) on a national level should be documented in various types of Bureau investigative reports.

BACKGROUND:

The ACLU has not been investigated by the Bureau. Cordial relationships have been maintained between the Bureau and various officials of the ACLU. The ACLU does not concern itself with the question of guilt or innocence of a person but maintains its policy is to defend the civil liberties of an individual regardless of political party, organization, denomination, race or nationality to which a person belongs. While some of its activities such as that relating to the Smith Act and other so-called "repressive" legislatio give aid and comfort to the Communists, the ACLU cannot be classed as a subversive organization. The 1949 report of the California Committee on Un-American Activities (CCUA), page 270, states "American Civil Liberties Union: 1. Cited as heavily infiltrated with Communists and fellow-travelers and frequently following the Communist line and defending Communists, particularly in its Los Angeles Unit. (California Committee on Un-American Activities, Report, 1948, pp. 108-112.

Approval was granted by memorandum C. H. Stanley to A. Rosen 2/9/55, captioned "Security of Government Employees, Documentation of the Los Angeles Chapter of the American Civil Liberties Union" for Bulet dated 2/9/55 to be transmitted to the three California offices authorizing them to utilize above citation by including certain statements of modification immediately at the beginning and end of it, only in documenting the Los Angeles Chapter of the ACLU (140-0-11294). This documentation was later amended and approved by memorandum C. H. Stanley to A. Rosen and letter to the California offices both dated 6/30/55 under the same caption (140-0-

Pages 3-4 of Newark report dated 12/1/55, captioned "N Teachers Defense Committee, Internal Security - C" (100-419297-4, suspected Communist front group, refers to the documentation of ACLU as set forth in the 1948 report of the CCUA. While this

61-190-575

Enclosure

JHK:mab
(8)

FOR ALL INFORMATION
SENT DIRECTOR
12-21-55

EX-126 17 JAN 17 1956

1006

documentation is public source material, it is believed that the practice of referring to and documenting the ACLU in reports is undesirable. Bufiles fail to reflect that the field has ever been instructed not to refer to or document ACLU; consequently, the report in question is not incorrect. Copies of rerep were disseminated locally per instructions relating to investigations of Communist front organizations contained in Section 87B of the Manual of Instructions. To have Newark submit amended pages to this report deleting this information would also require Newark to write each local agency which received a copy of the report advising that agency to delete the data. It is believed this should not be done. Present Bureau policy precludes the forwarding of amended pages to outside agencies for insertion in reports disseminated (SAC Letter 55-23 (b), 3/16/55.)

It is believed desirable at this time to instruct the field that membership in, reference to or documentation of the ACLU should not be included in investigative reports, except as noted above relating to the Los Angeles Chapter. Accordingly there is attached an SAC Letter so instructing.

RECOMMENDATIONS:

1. That the afore-mentioned Newark report remain as is. If you approve, this memorandum should be returned to Supervisor J. H. Kleinkauf, Room 1704, for appropriate dissemination of the report.

2. That the attached SAC Letter be approved and transmitted to the field.

3. That this memorandum be routed to Assistant to the Director L. B. Nichols for his comments.